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HOUSE MEMORIAL 19

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Daniel R. Foley

A MEMORIAL

**REQUESTING THE UNITED STATES CONGRESS TO REEVALUATE THE WORTH
OF THE ENDANGERED SPECIES ACT OF 1973 AND TO RESTORE PERSONAL
AND PROPERTY RIGHTS.**

**WHEREAS, congress enacted the federal Endangered Species
Act of 1973 to "halt and reverse the trend toward species
extinction whatever the cost", according to the United States
supreme court in *Tennessee Valley Authority v. Hill*; and**

**WHEREAS, because many people affected by the act perceived
its provisions as draconian, congress amended it in 1978 to
allow the secretary of the interior to "take into consideration
the economic impact, and any other relevant impact, of
specifying any particular area as critical habitat" and to
provide for an exemption from the act if reasonable and prudent
alternatives to a proposed action are available, taking into**

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1 account "the nature and extent of the benefits" of the action
2 and proposed alternatives; and

3 WHEREAS, four executive orders have been issued that
4 require the assessment of costs and benefits of different
5 regulatory actions in enforcing the Endangered Species Act of
6 1973; and

7 WHEREAS, private property owners have the greatest
8 influence over the survival of endangered species, according to
9 a 1993 nature conservancy study that estimates that seventy-
10 five percent of endangered or threatened species inhabit
11 private land; and

12 WHEREAS, most costs of the Endangered Species Act of 1973
13 are borne by private property owners because the act provides
14 for restrictions on property rights and punitive remedies for
15 taking an endangered species, thereby creating an incentive for
16 private property owners to keep endangered species off their
17 property rather than rewarding them for habitat improvements;
18 and

19 WHEREAS, although national cost-benefit analyses are
20 currently unreliable, one estimate of the recovery costs to the
21 northwest economy for one species in the northwest is thirty-
22 three billion dollars (\$33,000,000,000) to forty-six billion
23 dollars (\$46,000,000,000), with thirteen thousand to twenty-
24 eight thousand jobs lost, and the United States department of
25 the interior estimates that the potential direct cost to the

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1 federal treasury from implementation of recovery plans for all
2 listed species is about four billion six hundred million
3 dollars (\$4,600,000,000); and

4 WHEREAS, the impact of critical habitat designation is not
5 evenly distributed across the states, with, for example, Texas
6 not being required to contribute to New Mexico's cost of
7 recovering the silvery minnow even though Texas will benefit
8 from increased flows in the Rio Grande; and

9 WHEREAS, affected communities perceive that political
10 considerations play a bigger role than reliable scientific
11 considerations in the designation of individual endangered
12 species and their critical habitats and recovery plans; and

13 WHEREAS, critics of the Endangered Species Act of 1973
14 assert that it is misused as a punitive weapon against selected
15 interests and economic endeavors and is not administered so as
16 to honestly recover endangered species or promote biodiversity;
17 and

18 WHEREAS, the Endangered Species Act of 1973 has been
19 characterized as the most important environmental law in the
20 government's panoply of environmental protection policies, but
21 only eight species of the more than one thousand four hundred
22 species listed as threatened or endangered have been recovered
23 since its enactment in 1973;

24 NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF
25 REPRESENTATIVES OF THE STATE OF NEW MEXICO that the United

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1 States congress be requested to reevaluate the worth to the
2 nation's citizens of the many costly programs generated by the
3 Endangered Species Act of 1973 that have failed to achieve
4 their goals of protecting and preserving the environment and
5 those species the programs were designed to protect, and to
6 restore to the citizens of this country the personal and
7 property rights that are a part of the nation's founding
8 principles; and

9 BE IT FURTHER RESOLVED that copies of this memorial be
10 transmitted to New Mexico's congressional delegation.